

hence these claims have been cancelled. Support for the "real-time" limitation can be found in the specification as filed, for example, at page 12, lines 3-5. The dependency of claims 7, 9, 10, 63 and 66 have been amended to reflect the cancellation of claims 6 and 61.

Similarly, independent claim 18 has been amended to specify that the electronic positioning device is provided as part of a data acquisition unit which is separate from the display unit. Claim 18 has also been amended to specify that the display unit is configured to be worn by a user and is configured to display real-time data. Accordingly, claim 75 has been cancelled and the dependency of claim 76 amended. The remaining amendments are stylistic in nature and are not made for any reason pertaining to patentability.

The Root patent describes a monitor for providing an athlete with performance data. In contrast to the structure required by independent claims 1 and 18, as amended herein, however, the monitor described in Root is an unitary structure in which the data acquisition unit and the display screen are provided as a single unit. The Examiner has indicated that Figure 7 of Root discloses a performance monitor in which the display unit is separate from the data acquisition unit. The display unit in Figure 7, however, is a personal computer which obviously cannot be worn by someone or attached to an apparatus associated with physical activity being performed by the subject so as to be visible while the subject performs the physical activity. Furthermore, the personal computer depicted in Fig. 7 of Root cannot be used to display real-time data, as required by claim 1. Rather, the personal computer in Fig. 7 of Root will merely display performance data after the athlete has completed their activity. Thus, claim 1 as amended herein, clearly distinguishes over Root.

Furthermore, Root clearly and unequivocally teaches away from the invention defined by claim 1 herein. Specifically, at column 9, line 67 - column 10, line 6, Root states that the performance monitor described therein "eliminates the exclusive use of large, power-consuming, cumbersome, and visually distracting displays and leaves the athlete free to concentrate his/her exercise, safety, and surroundings." Thus, not only

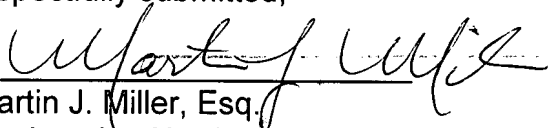
does Root not contemplate the use of the physically separate display unit configured for displaying real-time data, it clearly teaches away from modifying the disclosed performance monitor to provide such an arrangement. Thus, it would not have been obvious to modify the device taught by Root to provide the exercise monitoring system of claim 1 herein.

Independent claim 18 has been similarly amended, and therefore requires that the electronic positioning device be provided as part of a data acquisition unit which is separate from the display unit and that the display unit is configured to be worn by the user. Claim 18 also requires that the display unit display real-time data acquired by the electronic positioning device. For the reasons stated above with respect to claim 1, claim 18 is patentable over the Root reference, either alone, or in combination with any other cited reference.

For the reasons stated above, applicants specifically request that the Examiner allow all of the pending claims for this application.

Respectfully submitted,

By


Martin J. Miller, Esq.
Registration No. 35,953
Attorney for Applicant(s)
DINSMORE & SHOHL LLP
1900 Chemed Center
255 East Fifth Street
Cincinnati, Ohio 45202
(513) 977-8565

922574.01